IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4854 of 2007()

CRIME NO.513/2007 OF KASARAGOD POLICE STATION

PETITIONERS/ACCUSED

1. A.B.KALAM, S/O. KUNHAMU,
   A.B.K.HOUSE, MULIYAR, KASARAGODE.

2. A.B.RAFEEK, S/O. A.B.ABDULRAHIMAN HAJI,
   EIGHTH MILE, POVVAL, MULIYAR, KASARGODE.

3. A.B.IQUBAL, S/O. KUNHAMU,
   AMMANGOD, POVVAL, MULIYAR, KASARGODE.

4. S.K.ABDULLA, S/O. MOHAMMED KUNHI,
   EIGHTH MILE HOUSE, POVVAL, KASARGODE.

5. RAHEEM, S/O. ABOOBACKER,
   THEKKEMOOLA HOUSE, VIDYANAGAR.

6. JAMU @ SAMEER, S/O. TIPU AHMED,
   POVAL HOUSE, MULIYAR, KASARGODE.

7. SHERIEF, S/O. KAMRAJ ABDUL RAHIMAN HAJI,
   KOTA HOUSE, POVVAL, KASARGODE.

8. NAZAR, S/O. PALLAM ABDULLA HAJI,
   KOTA HOUSE, POVVAL, KASARGODE.

9. A.B.MOHAMMED KUNHI, S/O. A.B.ABDUKA,
   POVVAL, AMANGOD, KASARAGOD.

10. SHERIEF, S/O. CHAKKARA ABOOBACKER,
    CHAKKAR HOUSE, POVVAL, KASARGOD.

11. ANSARI, S/O. ABDUL RAHIMAN,
    POVVAL, MULIYAR, KASARGOD.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE
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1. S.I. OF POLICE,
KASARGODE.

2. STATE, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.4854 of 2007

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Dated this the 14th day of August, 2007

ORDER

Application for anticipatory bail . Petitioners apprehend arrest as accused in a crime registered, inter alia, under Sec.307 read with 149 IPC. The learned Public Prosecutor at the outset submits that the petitioners 9 to 11 are not arrayed as accused and they are not required to be arrested in this crime. The petition filed in so far as those petitioners, that is, the petitioners 9 to 11 are concerned can in these circumstances be dismissed as their apprehension is found to be without any basis.

2. Petitioners 1 to 8 are accused 1 and 8. Their names are specifically shown in the F.I. statement. The miscreants were allegedly armed with dangerous weapons. Political rivalry between IUML and CPM workers had led to the incident in question. Multiple fractures of the right tibia has been suffered by the victim.

3. The learned counsel for the petitioners submits that the petitioners are absolutely innocent and merely on account of

political animosity, the allegations are raised against them. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that all the available inputs point convincingly to the complicity of the petitioners/ accused 1 to 8. There is absolutely no circumstance justifying invocation of the extraordinary equitable discretion under Section 438 Cr.P.C., submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. There are no features suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners 1 to 8 must appear before the learned Magistrate or the Investigating Officer and seek regular bail in the ordinary and normal course.

5. In the result, this petition is dismissed. Submission of the learned Public Prosecutor that petitioners 9 to 11 are not made accused and they are not required to be arrested is taken note of and recorded. The prayer of the petitioners 1 to 8 is also rejected. Needless to say, if the petitioners appear before the

Investigating Officer or the learned Magistrate and apply for bail,after giving sufficient prior notice to the Prosecutor, the learned Magistrate or Investigating Officer must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE